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LETTER DATED 29 DECEMBER 1997 FROM THE PERMANENT REPRESENTATIVE OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to transmit to you herewith the statement issued on 25 December 1997 by the Lockerbie Suspects Defence Group in response to the contents of the report submitted to you by Dr. Dumbutshena and Professor Schermers on the Scottish judicial system. This was circulated as Security Council document S/1997/991 of 18 December 1997.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Abuzed Omar DORDA
Permanent Representative

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Annex

Statement issued by the Lockerbie Suspects Defence Group

The Lockerbie Suspects Defence Group, which comprises senior lawyers from each of the countries mentioned in the indicting resolution (including Malta, Switzerland, Germany, the United Kingdom of Great Britain and Northern Ireland and the United States of America) have followed developments since the United Kingdom Foreign Secretary reneged on the proper stance which he had adopted in his statements during the Commonwealth Conference, and in particular the statement he made on 27 October 1997, when he did not appear to rule out a trial in a neutral country. However, on 28 October 1997 he said that he would invite representatives from the United Nations, the Organization of African Unity and the League of Arab States to visit Scotland and study the Scottish judicial system. At the time we provisionally registered our position, namely, that the issue is not one of studying the Scottish or United States judicial system - if that were the case, why should the Libyan Arab judicial system not be studied? It is a modern and up-to-date system, drafted under the supervision of the United Nations at the time when Libya was being prepared for independence, and in accordance with the most modern and up-to-date judicial systems.

We have made it clear that the issue is not the study of any judicial system, but rather to find a solution that will guarantee a fair trial in the following conditions:

(a) Far from the atmosphere of political and media prejudice, which is extensive in the United Kingdom and the United States of America; and

(b) Far from the biased juries who are more influenced by political and media prejudice than by the judges.

This does not mean that it suffices that a person be from Scotland, for example, in order to conduct a fair trial, or that the trial be held in that country.

What we have proposed is the following:

(a) To change the location of the trial; and

(b) To replace jurors by a group of judges, to be agreed upon, presided over by a Scottish judge.

On our side, we have compromised in order to reach this solution by accepting that our clients should be tried outside the natural jurisdiction of their own judges, to which they are entitled under Libyan Arab national law and the law of international conventions (article 5, paragraphs 2 and 3, of the Montreal Convention of 1971, to which the United States of America, the United Kingdom and the Libyan Arab Jamahiriya are signatories), and under international customary law and the principles of human rights. The United States and the United Kingdom defence team, in their recent submissions to the International Court of Justice on 11 to 22 October 1997, acknowledged and affirmed that the

Libyan Arab Jamahiriya has judicial authority and competence in accordance with the Montreal Convention of 1971, article 5, paragraphs 2 and 3. It also acknowledged and affirmed that there was no obligation for the Libyan Arab Jamahiriya to hand over the suspects, since it had already started its judicial procedures (article 7 and article 8, paragraph 3, of the aforementioned Montreal Convention of 1971).

Therefore, the proposal which we have negotiated under the judicial authority and competence of our country includes the following:

(a) The trial should not take place in the Libyan Arab Jamahiriya, the United States of America or the United Kingdom;

(b) Jurors should be replaced by a group of judges, to be agreed upon, presided over by a Scottish judge.

This is not to say that the jury system should be abandoned. If the trial were held in Scotland contrary to our proposal, we would insist on the natural judicial authority and competence for our clients, namely, the national jurisdiction of the Libyan Arab Jamahiriya.

We will thwart any measure or attempt to hand over our clients, since that would be invalid under national law, international customary and convention law and human rights principles which guarantee our clients the right to a fair trial. It would also ignore the principle that a man is innocent until proved guilty, which has been undermined by political and media prejudice in both the United Kingdom and the United States.

We welcome the position adopted by the League of Arab States, the Organization of African Unity, the Organization of the Islamic Conference and the Movement of Non-Aligned Countries. We also welcome the just and objective stance taken by the families of the victims in Scotland and the United States, and their support for the suggestion made by Professor Blake that the trial should be held in The Hague by a group of judges, to be agreed upon, presided over by a Scottish judge. These judges would act as unbiased jurors.

We consider that the Secretary-General of the United Nations should commission a group of lawyers to study this proposal, and to present it to the Council as a reasonable and acceptable suggestion that is in keeping with the provisions of Security Council resolution 883 (1993), paragraph 16.

Ibrahim Bashir Al-Ghuwayl
Coordinator,
The Lockerbie Suspects Defence Group

25 December 1997